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October 24, 2008

**VIA ELECTRONIC FILING**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

**Re: Ex Parte Notification**  
**WC Docket No. 05-337; CC Docket No. 01-92**

Dear Ms. Dortch:

On October 24, 2008, Jon Foxman, President and CEO, of MTPCS, LLC d/b/a Cellular One ("MTPCS"), Julia Tanner, General Counsel of MTPCS, and the undersigned, met with Scott Bergmann, Senior Legal Advisor to Commissioner Jonathan S. Adelstein, to discuss the reform proposals currently being considered by the Commission in the above-captioned proceeding and the harmful effects these proposals would have on consumers served by MTPCS.

MTPCS explained why the proposals, if adopted, would be devastating to rural wireless providers like MTPCS and cannot be considered competitively neutral. In that regard, MTPCS stated its opposition to requiring wireless carriers to meet a wireline cost benchmark and noted that the likely result of such a benchmark would be a halt in buildout of rural wireless. Because wireless ETCs would incomprehensively be required to divide their costs by the number of wireline lines in a study area and unfairly precluded from including the purchase price of spectrum licenses, handset subsidies and general corporate and administrative costs, including call center, marketing and billing functions, which tend to be markedly more personnel-intensive in the wireless context because of the complexity of the user equipment and service options, rural wireless are unlikely to be able to meet a wireline cost benchmark. However, if such a benchmark is applied to wireless, MTPCS recommended exempting Tier II and Tier III carriers from any cost requirements, or to simply examine whether the markets being served are "rural" in terms of population per area, rather than requiring carriers to prove that their market is "rural" based on expenditures.

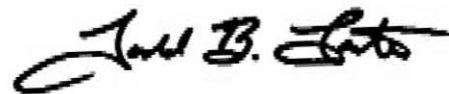
With regard to the proposal to require wireless ETCs to provide broadband service within five years in order to remain eligible for universal service funding, MTPCS noted that most Tier II and Tier III carriers would likely not be able to comply with the proposed 20% broadband requirement in Years 1-4. As a result, MTPCS recommended that Tier II and Tier III carriers be exempted from the annual 20% broadband requirement and required to simply meet the coverage requirement applicable to all carriers in Year 5. Moreover, before wireless ETCs are required to implement broadband, MTPCS stated that a proper wireless broadband funding mechanism must be implemented. The funding mechanism for wireless broadband must provide sufficient and predictable support.

MTPCS representatives also explained their concern that, depending upon how the agency's proposals are worded, adoption could result in MTPCS' inability to meet the coverage condition attached to its ETC designation from the Montana Public Service Commission (requiring MTPCS to cover 98% of the population in each of the study areas for which it was designated within five years of designation), and may similarly impact MTPCS' ability to complete planned expansion of coverage.

MTPCS explained that it had formed engineering and business plans for meeting the buildout/coverage condition in reliance on carefully researched professional estimates of support, with reference to the law and rules in effect at the time of its application and subsequent ETC designation. MTPCS noted that a majority of the study areas it planned to cover in meeting the buildout requirement currently contain no CETCs. The MTPCS buildout plan included some areas that currently have little or zero actual existing wireless coverage. As evidenced by the attached letter from Montana's Senators, "there are still hundreds of miles in rural states like Montana, where quality wireless coverage does not exist."

Pursuant to Section 1.1206 of the Commission's Rules, this *ex parte* notification is being filed electronically with your office, along with the materials provided to Mr. Bergmann during our meeting.

Respectfully submitted,



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Todd B. Lantor  
*Counsel to MTPCS*

Cc: Scott Bergmann  
Best Copy and Printing, Inc.

Attachments